IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

Bail Appl..No. 4270 of 2007()

CRIME NO. 236/07 OF MUKKOM POLICE STATION

PETITIONER/1ST ACCUSED

SAVIO FRANCIS, S/O K.K.FRANCIS,
AGED 36 YEARS, KAILATH HOUSE,
ALLI P.O., MUKKOM.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT

STATE OF KERALA THROUGH THE
SUB INSPECTOR OF POLICE, MUKKOM POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT
OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4270 of 2007

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Dated this the 13th day of July, 2007

O R D E R

Application for anticipatory bail. Petitioner is the first accused in a crime registered initially under Section 498A I.P.C. The petitioner is the husband of the defacto complainant. He is allegedly guilty of matrimonial cruelty of culpable variety against the defacto complainant. The marriage took place as early as in 1996. Three children have been born in the wedlock. The crux of the allegations is that the petitioner assaulted the defacto complainant and in collusion with his father, tighten a rope around her neck and abandoned her in front of her house. The incident took place on 14.6.2007. The doctor examined her on 14.6.2007. The petitioner apprehends imminent arrest. In the course of the proceedings, allegation under Section 308 I.P.C. has also been included.

2. The learned counsel for the petitioner submits that there is strain in the marital tie and such strain is prompting the defacto complainant to raise reckless and vexatious allegation. In any view of the matter, the petitioner does not deserve to suffer the trauma of

arrest and incarceration in prison. Allegation under Section 308 I.P.C. has been raised with vexatious intent, submits the learned counsel.

3. The learned Prosecutor does not seriously oppose the application. I reckon that as a fair and reasonable stand as arrest and incarceration of the petitioner is likely to mar the marital tie beyond repair. Appropriate conditions can be imposed and directions can be issued under section 438 Cr.P.C.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 20.7.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 21.76.07 and 23.7.2007. Thereafter he shall appear before the Investigating Officer on all Mondays and Fridays between 10 a.m. and 12 noon for a period of

two months and thereafter as and when directed by the Investigating Officer in writing to do so.

(d) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 20.7.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(b) If the petitioner were arrested prior to his surrender on 20.7.2006 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.50,000/- without any surety undertaking to appear before the learned Magistrate on 20.7.2007.

(R. BASANT)
Judge

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